

**MINUTES OF THE  
MIDWAY CITY COUNCIL  
(Regular Meeting)**

**Tuesday, 4 June 2024, 6:00 p.m.  
Midway Community Center, Council Chambers  
160 West Main Street, Midway, Utah**

**Note:** Notices/agendas were posted at 7-Eleven, The Market Express, the United States Post Office, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Director, and The Wasatch Wave. The public notice/agenda was published on the Utah State Public Notice Website and the City's website. A copy of the public notice/agenda is contained in the supplemental file.

**1. Call to Order; Pledge of Allegiance; Prayer and/or Inspirational Message**

Mayor Johnson called the meeting to order at 6:07 p.m.

**Members Present:**

Celeste Johnson, Mayor  
Lisa Orme, Council Member  
Kevin Payne, Council Member  
Craig Simons, Council Member  
JC Simonsen, Council Member

**Staff Present:**

Corbin Gordon, Attorney  
Michael Henke, Planning Director  
Wes Johnson, Engineer  
Katie Villani, Planner  
Brad Wilson, Recorder

**Members Excused:**

Jeff Drury, Council Member

**Note:** A copy of the meeting roll is contained in the supplemental file.

Mayor Johnson led the Council and meeting attendees in the pledge of allegiance. Council Member Simonsen gave the prayer and/or inspirational message.

**2. Consent Agenda**

- a. Agenda for the 4 June 2024 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 21 May 2024 City Council Work Meeting
- d. Minutes of the 21 May 2024 City Council Regular Meeting
- e. Minutes of the 21 May 2024 City Council Closed Meeting
- f. Appoint Genene Probst, with the advice and consent of the City Council, as a full member of the Midway City Planning Commission

- g. Release the construction bond, minus 10% and any amount for landscaping, and begin the one-year warranty period for Phase 5 of the Watts Remund Farms PUD located at 400 North Farmhouse Way

**Note:** Copies of items 2a, 2b, 2c, 2d, 2f, and 2g are contained in the supplemental file.

**Motion:** Council Member Payne moved to approve the consent agenda as included.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

**Vote:** The motion was approved with the Council voting as follows:

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

Council Member Orme noted that she was not at the meetings on May 21<sup>st</sup> and could not approve those minutes.

### 3. Public Comment – Comments were taken for items not on the agenda.

Mayor Johnson asked if there were any comments from the public for items not on the agenda. No comments were offered.

### 4. Department Reports

#### Animal Services / MOU

Council Member Simonsen reported that he gave the Council's feedback, regarding the proposed memorandum of understanding (MOU), to the Animal Services Board.

#### Parks / Playground Equipment

Council Member Simonsen reported on the installation of new playground equipment in the City's parks.

#### North Center Street Trail

Council Member Simonsen reported on the design work for the trail along the north section of Center Street.

### Road Safety Measures / Grant

Council Member Simonsen reported that the City had applied for a grant to install road safety measures.

### Tree City / Celebration

Council Member Simonsen reported that a Tree City USA celebration had been held in conjunction with Founders' Day. Mayor Johnson added that Super Trees donated a tree for the event and trained attendees on planting trees.

### Oral Histories

Council Member Simons reported that the Historic Preservation Committee was through two-thirds of its oral histories project.

### TAP Tax Funds / Wood Carving Event

Council Member Simons thanked the City for the trails, arts, and parks (TAP) tax funds. He indicated that the wood carving event was a success.

### Cemetery / Items Stolen

Council Member Orme noted that items at the City's cemetery were stolen around Memorial Day.

### Town Square / Grant

Council Member Orme reported that she was working on obtaining grant money for the Town Square improvements.

### Trees / Replacement

Mayor Johnson reported that any trees on city property, which needed to be replaced, would be done so in the fall.

### Main Street Lights / Replacement

Mayor Johnson reported that the decorative streetlights along Main Street were being replaced with ones that were dark sky compliant.

## **5. Kim Facer / Alternate Member of Planning Commission (Mayor Johnson –**

Approximately 5 minutes) – Introduce and possibly appoint Kim Facer, with the advice and consent of the City Council, as an alternate member of the Midway City Planning Commission.

Mayor Johnson explained that the Council wanted to meet nominees for the Planning Commission. She introduced Kim Facer and requested that he be appointed as an alternate member.

Mr. Facer introduced himself and offered to answer any questions.

**Motion:** Council Member Simons moved to appoint Kim Facer as an alternate member of the Midway City Planning Commission.

**Second:** Council Member Orme seconded the motion.

**Discussion:** None

**Vote:** The motion was approved with the Council voting as follows:

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

**6. Health Department / Annual Report** (Jonelle Fitzgerald – Approximately 10 minutes) – Receive an annual report from the Wasatch County Health Department.

Jonelle Fitzgerald, Wasatch County Health Director, gave a presentation and reviewed the following items:

- Retirement of Dwight Hill
- Improved website
- Budget

Director Fitzgerald also made the following comments:

- The Health Department represented Wasatch County and its municipalities.
- The Health Department had a good board.

Sara Simonsen, Wasatch County Board of Health Vice-Chair, reviewed programs offered by the Health Department including its diabetes prevention program.

**Note:** A copy of the Health Department’s annual report is contained in the supplemental file.

Mayor Johnson thanked the Health Department and Board of Health for their unifying influence during the COVID-19 pandemic. She thanked them for their help with the Heber Valley Special

Service District's sewer treatment facility.

**7. Wasatch County Fire Marshal's Office / Wildfires** (Troy Morgan – Approximately 15 minutes) – Receive a report from the Wasatch County Fire Marshal's office regarding wildfires.

Troy Morgan, Wasatch County Fire Warden, gave a presentation and made the following comments:

- There was a good snowpack which would help with wildfires at higher elevations.
- The increased moisture encouraged grass at lower elevations which increased the wildfire risk.
- Dry lightning and a lack of monsoon moisture could also increase the risk.
- Fireworks would only need to be prohibited in the wildland interfaces and upper mountains.
- Firefighters were being certified for wildfire operations.

Mayor Johnson recommended that goats be used to reduce wildfire fuels.

Council Member Simons thanked emergency services for their work.

**8. Tentative FY 2025 Budget / Public Hearing** (Budget Officer – Approximately 30 minutes) – Receive public comment on and discuss the adopted tentative FY 2024 Budget for Midway City (**Public Hearing** - Public comment must be related to this item on the agenda).

Nancy Simons, Midway City Budget Officer, gave a presentation on the tentative budget and reviewed the addition for Music on the Square. She indicated that the budget for FY 2025 and a final amendment for the FY 2024 Budget would be adopted at the next meeting.

The Council, staff, and meeting attendees discussed the following items:

- A railing should be added to the recently purchased portable stage.
- Events were successful because of consistency.
- Wednesday instead of Tuesday should be considered for Music on the Square.
- Local talent should be supported.
- Passthrough accounts were now shaded in the budget.

**Public Hearing**

Mayor Johnson opened the hearing and asked if there were any comments from the public. She closed the hearing when no public comment was offered.

Mayor Johnson reported that the City was receiving a lot of grant money, had healthy reserves in its Water Fund, and used a 10-year plan for its infrastructure.

**9. Ordinance 2024-11 / Swiss Haven Annexation** (Lauren Bolger – 20 minutes) - Discuss

and possibly deny, continue, or adopt Ordinance 2024-11 approving the Swiss Haven Annexation located at approximately 850 West Bigler Lane (Zoning would be Resort) (**Public Hearing** - Public comment must be related to this item on the agenda).

Michael Henke gave a presentation regarding the annexation and reviewed the following items:

- Land use summary
- Location of the annexation
- Annexation plat map
- Zermatt master plan
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- No major issues had been identified.
- Survey issues had been resolved.
- The annexation was needed because a portion of the property, which was approved many years earlier for development in the City, was in the County.
- A change application for the needed water had already been completed.
- A donation for parks, which was usually required with annexation, would be approximately \$400.
- Impact fees would be paid with the building permits.

**Note:** A copy of Mr. Henke's presentation is contained in the supplemental file.

Lauren Bolger, Hoffman Law and representing the applicant, agreed to pay the park's donation.

### **Public Hearing**

Mayor Johnson opened the hearing and asked if there were any comments from the public. She closed the hearing when no public comment was offered.

**Motion:** Council Member Payne moved to approve Ordinance 2024-11, approving the Swiss Haven Annexation, with the following findings and conditions:

- The proposal was a legislative action.
- The proposed annexation complied with the intent of the annexation code.
- The Swiss Haven PUD was approved by the City in 2000. It appeared at that time that the City understood that the entire parcel was within the City limits.
- The Swiss Haven subdivision plat would not be recorded until the Swiss Haven Annexation plat was recorded.
- A parks annexation fee of \$390.50 would be paid to the City.

**Second:** Council Member Orme seconded the motion.

**Discussion:** Council Member Simons noted that Bigler Lane, which accessed the annexation,

was in disrepair. Wes Johnson responded that the applicant would repave the road in front of the annexed property and the City would repave the rest that had failed.

**Vote:** The motion was approved with the Council voting as follows:

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

**10. Springer Farms Subdivision / Final Approval for Additional Subdividing of Property**  
(Travis Nokes – Approximately 15 minutes) – Discuss and possibly deny, continue, or grant final approval for the additional subdividing of the Springer Farms Subdivision located at 65 North 200 West (Zoning is C-3).

Michael Henke gave a presentation regarding the request and reviewed the following items:

- Application summary
- Location of the development
- Recorded plat map
- Visual representations of the building
- Summary of Springer Farms
- Land use summary
- Possible findings

Mr. Henke also made the following comments:

- The building that was proposed for subdivision was under construction.
- There were no changes since preliminary approval.
- Other buildings in the development might be subdivided in the future.
- None of the required parking was offsite.
- UDOT could prohibit parking on 200 West.
- There was enough parking on site.
- The parking was not assigned to specific buildings.
- The most demanding parking requirements were used for the development.
- There were a couple of extra parking spaces.
- The parking requirements could be less if the uses needed parking at different times of the day.
- Any changes in parking or water rights would have to be addressed when a building permit was submitted.
- A lot of thought had been put into the building.
- Did not have any conditions.

**Note:** A copy of Mr. Henke's presentation is contained in the supplemental file.

**Motion:** Council Member Simons moved to grant final approval for the Springer Farms

Subdivision with the following findings:

- The proposal would benefit the City financially by creating a greater tax base and by providing more commercial options to the community.
- The proposal might help the City better comply with State requirements regarding the ability to collect resort tax.
- Commercial condominium developments were a conditional use in the C-3 zone.

**Second:** Council Member Orme seconded the motion.

**Discussion:** Council Member Simonsen noted that the applicant did some mitigation which was adequate.

**Vote:** The motion was approved with the Council voting as follows:

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

**11. Homestead Resort, Phases 1 & 2 / Preliminary Approval** (Berg Engineering – Approximately 90 minutes) – Discuss and possibly deny, continue, or grant preliminary approval for Phases 1 and 2 of the Homestead Resort located at 700 North Homestead Drive (Zoning is Resort) (**Public Hearing** - Public comment must be related to this item on the agenda).

**Note:** Council Member Simons indicated that he would not vote on the item but would listen to the discussion because he had interest in the property.

Michael Henke gave a presentation regarding the proposed approval and reviewed the following items:

- Land use summary
- Location of the project
- Overview of ownership
- Open space
- Core area
- Phasing
- Master plan language
- Phasing plan
- Events center
- Condominium buildings
- Site plan
- Site master plan
- Borders and walls
- South boundary cross sections



- North boundary
- Discussion items
- Emergency access
- Water board recommendation
- Section of the Municipal Code regarding water rights for development
- Breakdown of water rights calculation
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- A proposed master plan amendment had been considered by the Planning Commission but was withdrawn before coming to the Council.
- The request was based on the current master plan.
- There were now only two phases in the project, and they included the entire property.
- Both phases would be considered at the same time.
- The core was treated differently from other parts of the resort.
- Some property was proposed to be put into a conservation easement.
- The approved master plan allowed for some adjustment for locations and the number of keys.
- The proposal was for preliminary approval.
- The project would be a branded Marriot property.
- 49 hotel rooms would become 68 condo units.
- The proposal was 100,000 square feet less than the maximum allowed.
- The parking requirement increased.
- There would be 453 keys.
- The applicant spoke with The Links HOA regarding access.
- All the required parking had been designated and shown.
- The wall along the south border would mitigate light and noise. The Links HOA would maintain the landscaping on the south side of the wall. An electrical box would be behind the wall.
- There would be 30-foot setbacks on both sides of the south property line.
- A water lease with the Utah Division of Parks and Recreation was not in perpetuity, which was a concern. Accepting this type of lease could set a bad precedent. The applicants had options regarding the water, but they would be difficult to accomplish.
- The City had always required Midway Irrigation Company water shares or irrevocable perpetual water leases.
- The proposed event center would now be under 35 feet and would not require a height exception.

**Note:** A copy of Mr. Henke's presentation is contained in the supplemental file.

Paul Berg, Berg Engineering Resource Group and representing the applicants, reviewed the history of changes to the Homestead and the following items:

- Comparison of the 2008 agreement and 2024 plan
- Site plan
- Section of the 2008 agreement regarding water.

- Addendum language for the use of M&I water.
- 6 May 2019 water board minutes and related motion

Mr. Berg also made the following comments:

- The south wall would be five feet from the property line.
- The proposed changes would be good for the Homestead and the City.
- The applicant was trying to work with the neighbors.
- The Water Advisory Board knew that some of the leased water was not in perpetuity. The Water Board did not raise any concerns about the lease.
- The Council should consider the agreements and the goals.
- People had relied on the agreements, approvals, etc.
- The applicants had 22 years to find replacement water rights.
- The Slough Ditch or the Shneider Spring could be used. Another lease or M&I water were also possibilities.
- The golf course would not be watered if other water rights were not obtained.
- Some open space could be removed from the proposals to reduce the water requirements.

**Note:** A copy of Mr. Bergs comparison is contained in the supplemental file.

The Council, staff, and meeting attendees discussed the following items:

- The Water Board was only an advisory body.
- The Utah Division of Parks and Recreation could not revoke the lease early.
- What would the Council pass on to future officials if it approved the request without permanent water rights?
- The water rights issue could be addressed for final approval.
- The improvements were good, the City should support the request, and it should help fix the water issue.
- Significant issues needed to be addressed at preliminary approval.
- The water requirements and rights for the Homestead were difficult to address.
- The golf course should not be dried up.
- Midway was successful because it guarded its water rights.
- The City needed to see the water lease documents between the Homestead and the Division of Parks and Recreation.
- Could the lease become permanent?
- The City still had some remaining M&I water but it wanted to use it for affordable housing, etc.

### **Public Hearing**

Mayor Johnson opened the hearing and asked if there were any comments from the public.

### **Brian Andrews**

Mr. Andrews made the following comments:

- A significant shift was happening.
- The Homestead should own all the units instead of 68 individually owned condos.
- The City was taking on faith that Marriott would oversee the units.
- The water, traffic, etc. was not good and would negatively affect the fabric of the City.
- The first areas to be constructed had the most density.
- The applicant was supposed to build a trail along Homestead Drive but had not.
- More time was needed to consider the proposal.

#### Norm Henderson

Mr. Henderson made the following comments:

- The golf course should be included in the proposal because of the water rights.
- The access and easements for the golf course were a concern.
- The boundary description for the master plan included that resort core and open space.
- The description on the 2021 agreement was unreadable.
- The City and the surveyor did not have a readable copy of the description.
- Code required that the application include the description.
- There was no way to determine easements and property rights without a readable description. This was important to the HOA to which he belonged.
- Owned property in a development that had to go through other developments for access. Needed to know if this access was affected by the Homestead.
- The proposal should not be approved until the description issue was resolved.

Mayor Johnson asked the City Attorney to address the description issue.

#### Reed Kellam

Mr. Kellam made the following comments:

- There was an agreement with The Links HOA and the applicants to work out certain issues. Parking was not addressed in the agreement.
- Eight of the 13 property owners in The Links were concerned about the south parking in the proposal.
- The existing parking of 200 spaces would increase to 510. Where would all the new spaces be?
- Wanted consistency.
- Ameyalli had garages and underground parking.
- The parking should be mitigated and be with the buildings. Mayor Johnson indicated that the City could not mandate the parking be with the buildings or underground. She also noted that underground parking was difficult in Midway.
- The setbacks should be extended to 100 feet. Ben Shakespear, applicant, responded that there was not enough space for that size of a setback.
- Two story units were a concern.

### Scott Lewis

Mr. Lewis made the following comments:

- Trails were important to Midway.
- Trail access had been cut off in the Homestead.
- Would like trail access through the property.

Michael Henke made the following comments:

- Access was dangerous through a golf course.
- There was not a good solution to the liability that would create.
- Access might be accomplished if the driving range was replaced with a simulator.

Mayor Johnson was disappointed that the trail from Pine Canyon Road had been closed to the public. She noted that the trail along Homestead Drive would be completed. Mr. Henke added that the Homestead donated \$50,000 for a trail.

### John Reeves

Mr. Reeves made the following comments:

- Did not oppose the golf course improvements.
- Certain items required by the Municipal Code had not been addressed with the application. These items included power, an operations plan, and a citizen participation plan.
- Neighboring residents were not informed of the meeting.
- A master property owners association (POA) was needed.
- How would emergency access occur in the winter? Mayor Johnson responded that the Wasatch County Fire District would be involved in the project.

Mr. Henke responded that a POA would be created for the condominiums. He added that the appropriate documents were being drafted.

### Chris Rideout

Mr. Rideout made the following comments:

- Would there be bollard lighting on the north side of the project? Mr. Shakespear responded that bollard lighting would be used throughout the project.
- What was the public process for improvements to the golf course? Mr. Henke responded that an approval or public hearing were not required. Mayor Johnson emphasized that the golf course was separate from the request.
- Were permits for grading, etc. required for the golf course? Mr. Henke responded that permitting was required only with sensitive lands. Mr. Berg added that he offered the plans to the City Engineer for review. Mr. Henke indicated that drainage was not an issue if it was natural or retained on the property. Mr. Berg indicated that a SWPPP permit would be obtained from the State.

Mayor Johnson closed the public hearing.

Mr. Berg made the following additional comments:

- The phasing of the construction could be altered.
- The applicants had tried to work with the surrounding HOAs.
- Parking was placed so that neighbors would not see a wall of buildings.
- The buildings would be set back at least 30 feet. They would also be no higher than 30 feet.
- Doubted that the trail access issue could be resolved.
- Some golf course parcels would be part of the plat maps and noted as open space along with having conservation easements.
- There would be 18 inches to two feet in elevation drop in the south parking lot.
- The elevation of the buildings varied from location to location.
- The covenants, conditions, and restrictions (CCRs) had been submitted to the City.

The Council, staff, and meeting attendees discussed the following items:

- The density of the proposal was less than the maximum allowed.
- A bond would be in place for the horizontal construction.
- The areas in the golf course that were not owned by the applicants had the necessary water.
- Only leases in perpetuity should be accepted.

**Motion:** Council Member Simonsen moved to grant preliminary approval for Phases 1 and 2 of the Homestead Resort as presented that night with the following findings and conditions:

- Note the mitigation measures for light and noise including the wall along the boundary.
- The issues with the water would be resolved to the City's satisfaction and water requirements would be met.
- The proposal would benefit the City financially by creating a greater tax base.
- The proposal would help the City better comply with state requirements regarding the ability to collect the resort tax.
- The public trail system in the development would benefit the entire community by completing the public trail along Homestead Drive.
- Amenities would be created that would be accessible year-round, which would invite more tourists to visit the resort in all seasons.
- The proposal would increase traffic to the surrounding community.
- The public trail that paralleled Homestead would be built by August 1, 2024.
- A light mitigation plan would be submitted to the City, and agreeable to the City, that would mitigate the potential impact to the residents of The Links through a combination of a berm, landscaping, and a non-sight obtrusive fence.
- All existing lighting and planned lighting in the resort would comply with current Midway requirements. Existing nonconforming lighting in each phase would be brought into compliance within a year of recording the plat map where the lighting would be located.
- Landscaping would be installed along the southern and northern boundaries of the Homestead the first summer season of construction to help mitigate nuisance issues related to construction activities.

- With respect to the 19.74 acres of previously designated open space per the current master plan agreement that was located outside of the resort core, a conservation easement should be placed on it to permanently restrict it from future development. The conservation easement would be held by an accredited land trust.
- All required parking for each building and use would be completed before the certificate of occupancy was issued for each building in both phases.
- A UDOT approval document would be submitted to the City for the new access location on State Route 222.
- The traffic study was updated based on the current plan before the item was reviewed by the City Council.
- The City could resolve the problem of the property delineation and access easement questions to ensure that they were properly identify and delineated.

**Discussion:** Mayor Johnson questioned if a problem would be created by increasing the units to 68 condominiums. Mr. Henke responded that the number of permanent residences in the project was limited to ten percent of the total square footage. Lauren Bolger, also representing the applicants, responded with the following comments:

- The CCRs limited the time that owners could spend in their units.
- The condo associate could change this requirement only with the approval of the master association.
- Midway City could be named as a third-party beneficiary on certain items.
- The units were intended to function as a hotel.
- The number of pillows would increase from 600 to 1300.

**Amended Motion:** Council Member Simonsen amended his motion to grant preliminary approval for Phases 1 and 2 of the Homestead Resort as presented that night with the following findings and conditions:

- Note the mitigation measures for light and noise including the wall along the boundary.
- The issues with the water would be resolved to the City's satisfaction and water requirements would be met.
- The proposal would benefit the City financially by creating a greater tax base.
- The proposal would help the City better comply with state requirements regarding the ability to collect the resort tax.
- The public trail system in the development would benefit the entire community by completing the public trail along Homestead Drive.
- Amenities would be created that would be accessible year-round, which would invite more tourists to visit the resort in all seasons.
- The proposal would increase traffic to the surrounding community.
- The public trail that paralleled Homestead would be built by August 1, 2024.
- A light mitigation plan would be submitted to the City, and agreeable to the City, that would mitigate the potential impact to the residents of The Links through a combination of a berm, landscaping, and a non-sight obtrusive fence.
- All existing lighting and planned lighting in the resort would comply with current Midway requirements. Existing nonconforming lighting in each phase would be brought into compliance within a year of recording the plat map where the lighting would be located.
- Landscaping would be installed along the southern and northern boundaries of the Homestead the first summer season of construction to help mitigate nuisance issues related to construction activities.

- With respect to the 19.74 acres of previously designated open space per the current master plan agreement that was located outside of the resort core, a conservation easement should be placed on it to permanently restrict it from future development. The conservation easement would be held by an accredited land trust.
- All required parking for each building and use would be completed before the certificate of occupancy was issued for each building in both phases.
- A UDOT approval document would be submitted to the City for the new access location on State Route 222.
- The traffic study was updated based on the current plan before the item was reviewed by the City Council.
- The City could resolve the problem of the property delineation and access easement questions to ensure that they were properly identify and delineated.
- At the applicants' suggestion the City would be made a third party to the particular elements of the CCRs regarding the usage of the units for full-time residents.

**Second:** Council Member Orme seconded the motion.

**Discussion:** None

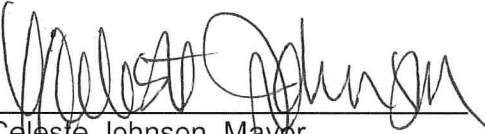
**Vote:** The motion was approved with the Council voting as follows:

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Recused
Council Member Simonsen	Aye

## 12. Adjournment

**Motion:** Council Member Orme moved to adjourn the meeting. The motion passed unanimously.

The meeting was adjourned at 9:43 p.m.

  
 Celeste Johnson, Mayor

  
 Brad Wilson, Recorder